

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY BRASILIA IMMEDIATE

C O N F I D E N T I A L STATE 299086

LIMDIS

E.O. 11652: GDS

TAGS: ETRD, BR

SUBJECT: COUNTERVAILING DUTY INVESTIGATIONS

REF: (A) BRASILIA 10707; (B) RIO 4144

1. FOLLOWING IS TEXT OF LETTER FROM SECRETARY SIMON TO SIMONSEN MAILED BY TREASURY DECEMBER 18. TONE OF LETTER IS URGENT DUE TO TREASURY NEED FOR CLARIFICATION OF NEW EXPORT MEASURES PRIOR TO END OF YEAR. SHOULD TREASURY NOT RECEIVE CLARIFICATION IT FEELS LEGALLY BOUND TO ASSESS MAXIMUM POSSIBLE RATE ON HANDBAGS AND POSSIBLY TO SUSPEND LIQUIDATION ON FOOTWEAR. DUE TO SHORT TIMEFRAME, SUGGEST EMBASSY PROVIDE SIMONSEN ADVANCED TEXT AND MAKE POINTS PROVIDED IN FOLLOWING PARAGRAPHS. BEGIN TEXT.
DEAR MARIO,

IN CONTINUATION OF THE CLOSE COOPERATION BETWEEN OUR
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GOVERNMENTS, I MUST ADVISE YOU OF THE DIFFICULTIES RAISED

IN OUR COUNTERVAILING DUTY INVESTIGATIONS BY YOUR GOVERNMENT'S RECENT ACTIONS CONCERNING NEW EXPORT INCENTIVE MEASURES.

AS YOU ARE AWARE, WE HAVE PENDING COUNTERVAILING DUTY INVESTIGATIONS WITH RESPECT TO EXPORTS OF LEATHER HANDBAGS AND CASTOR OIL PRODUCTS FROM BRAZIL. A FINAL DETERMINATION IN THE LEATHER HANDBAG INVESTIGATION MUST BE PUBLISHED BY JANUARY 3, 1976. THE FINAL DETERMINATION IN THE CASTOR OIL PRODUCTS CASE IS NOT DUE UNTIL MARCH 11, 1976. IN ADDITION, THERE IS AN OUTSTANDING COUNTERVAILING DUTY ORDER AFFECTING EXPORTS OF FOOTWEAR.

WE STILL AWAIT RECEIPT OF THE ACTUAL TEXT OF THE NEW DECREES AND REGULATIONS WHICH WERE RECENTLY ISSUED BY YOUR GOVERNMENT RELATING TO THE UTILIZATION OF UNUSED ICM CREDITS AND TO THE NEW FINANCING MEASURES FOR EXPORT PRODUCTS. HOWEVER, INFORMATION CURRENTLY AVAILABLE TO US REGARDING THE NEW MEASURES INDICATES THAT THE PROGRAMS ARE APPLICABLE TO THE PRODUCTS SUBJECT TO OUR COUNTERVAILING DUTY INVESTIGATIONS. THEREFORE, THE DATA DESCRIBING THE UTILIZATION OF BRAZILIAN EXPORT INCENTIVES BY LEATHER HANDBAG AND FOOTWEAR FIRMS WHICH WAS PREVIOUSLY SUBMITTED TO US BY YOUR GOVERNMENT APPARENTLY NO LONGER GIVES AN ACCURATE REFLECTION OF THE BRAZILIAN EXPORT INCENTIVE SITUATION.

ACCORDINGLY, UNLESS OUR UNDERSTANDINGS ARE INCORRECT, WE WILL HAVE NO ALTERNATIVE BUT TO ASSESS ADDITIONAL DUTIES ON THESE PRODUCTS SO AS TO OFFSET ANY BENEFITS CONFERRED BY THE GOVERNMENT OF BRAZIL. PENDING RECEIPT OF SUFFICIENTLY DETAILED INFORMATION AS TO THE LEVEL OF THESE BENEFITS, IT MAY BE NECESSARY TO DELAY FIXING THE FINAL LIABILITY OF IMPORTERS FOR CUSTOMS DUTY (I.E. TO SUSPEND LIQUIDATION). NEEDLESS TO SAY, THIS WOULD CAUSE A GREAT DEAL OF UNCERTAINTY IN THE MARKETPLACE. WE HAVE NO CHOICE, HOWEVER, SINCE THE SITUATION CREATED BY THE ANNOUNCEMENT OF THESE NEW PROGRAMS MAKES IT IMPOSSIBLE AT PRESENT TO CALCULATE THE UTILIZATION OF EXPORT INCENTIVES BY BRAZILIAN LEATHER HANDBAG AND FOOTWEAR MANUFACTURERS/EX-
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PORTERS.

I WOULD ALSO LIKE TO EXPRESS OUR CONCERN THAT IF THE NEW INCENTIVE PROGRAMS APPLY TO ALL BRAZILIAN EXPORTS TO THE UNITED STATES, THE PROBABILITY THAT ADDITIONAL U.S. INDUSTRIES WILL SEEK COUNTERVAILING DUTY RELIEF IS SUBSTANTIALLY INCREASED. I WOULD, OF COURSE, PREFER TO AVOID FURTHER IRRITATION TO OUR ECONOMIC RELATIONS WHICH WOULD INEVI-

TABLY FLOW FROM ANY ADDITIONAL INVESTIGATIONS. I AM CERTAIN YOU REALIZE THE DILEMMA IN WHICH WE FIND OURSELVES AND WOULD URGE THAT IF OUR UNDERSTANDING OF THESE PROGRAMS IS ACCURATE YOUR GOVERNMENT FIND A WAY TO AVOID THEIR APPLICATION TO EXPORTS TO THE U.S.

I HOPE THAT THROUGH OUR CONTINUING COOPERATION, WE WILL FIND AN AMICABLE SOLUTION TO THESE PROBLEMS. MY STAFF AND

I STAND READY TO DISCUSS THESE MATTERS WITH YOU AT ANY TIME.

WITH WARM PERSONAL REGARDS,

SINCERELY YOURS,

(SIGNED BILL)

WILLIAM SIMON
SECRETARY OF THE TREASURY
END TEXT.

2. SIMONSEN MAY BE ASSURED THAT THE LETTER FROM SECRETARY SIMON IS NOT INTENDED TO ADMONISH GOB IN THE IMPLEMENTATION OF THE NEW MEASURES BUT RATHER TO INFORM GOB OF PROBLEMS CREATED FOR TREASURY IN ITS COUNTERVAILING DUTY INVESTIGATIONS BY THE LACK OF INFORMATION CONCERNING FULL IMPACT OF MEASURES ON PRODUCTS UNDER INVESTIGATION. TREASURY REQUIRES MORE INFORMATION THAN PROVIDED BY REF A IN ORDER TO ASSESS WHETHER OR NOT ANY OF THESE MEASURES WILL AFFECT HANDBAG, FOOTWEAR OR CASTOR OIL EXPORTS TO THE U.S. IN LEATHER HANDBAG CASE, TREASURY IS REQUIRED TO ISSUE COUNTERVAILING DUTY DETERMINATION BY JANUARY 3. IF IT MUST WAIT FOR FULL INFORMATION ON POSSIBLE APPLICATION OF CONFIDENTIAL

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MEASURES TO HANDBAG PRODUCERS, THEN POSITIVE DETERMINATION MAY BE ACCOMPANIED BY IMPOSITION OF HIGH DUTY ON ENTRIES. TREASURY MUST ALSO CLARIFY SITUATION WITH RESPECT TO FOOTWEAR EXPEDITIOUSLY AND MIGHT BE COMPELLED TO SUSPEND LIQUIDATION ON FOOTWEAR UNTIL INFORMATION DEVELOPED.

3. NEW FINANCING PROGRAMS MAY OR MAY NOT CONSTITUTE BOUNTY OR GRANT DEPENDING UPON TERMS OF THE LOANS. TREASURY NOTES THAT CACEX CAN DESIGNATE FIRMS ELIGIBLE FOR THE NEW LINE OF CREDIT AND WOULD URGE GOB TO INDICATE WHETHER OR NOT FOOTWEAR, LEATHER HANDBAG AND CASTOR OIL PRODUCT FIRMS WILL BE EXCLUDED FROM THE PROGRAM.

4. MORE IMPORTANT, GOB EXPLANATION CONCERNING NEW MEASURE FOR RESTORATION TO EXPORTERS OF UNUSED ICM CREDITS DOES

NOT INDICATE THAT THE MEASURE WILL NOT BE AVAILABLE TO FOOTWEAR AND LEATHER HANDBAG EXPORTERS. FROM THE INFORMATION WHICH HAS BEEN PRESENTED BY THE GOB TO TREASURY IN FOOTWEAR AND LEATHER HANDBAG INVESTIGATIONS, IT IS APPARENT THAT THESE INDUSTRIES RETAIN SUBSTANTIAL UNUTILIZED ICM CREDITS. AS A BY-PRODUCT OF NEW MEASURES, IT MIGHT BE POSSIBLE FOR THESE FIRMS TO USE SOME OF THESE CREDITS, WHICH WOULD AFFECT COUNTERVAILING DUTY DETERMINATIONS WHICH HAVE EXCLUDED UNUSED ICM CREDITS FROM CALCULATIONS.

5. USG AWARE OF SENSITIVITY OF THESE ISSUES AND OF THE EXPORT SITUATION OF BRAZIL. HOWEVER, LEGAL REQUIREMENTS OF U.S. COUNTERVAILING DUTY LAW LIMIT FLEXIBILITY AND AMOUNT OF TIME TO SEEK SOLUTIONS, SO THAT COOPERATION OF GOB IN CLARIFYING SITUATION WITH REGARD TO THESE PRODUCTS WOULD BE DEEPLY APPRECIATED.

6. REF B RECEIVED AFTER PREPARATION OF TELEGRAM. TREASURY WOULD REQUIRE ASSURANCES FROM GOB THAT PROGRAM WOULD NOT BENEFIT HANDBAG AND FOOTWEAR MANUFACTURERS/EXPORTERS. KISSINGER

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